

**REMARKS**

This amendment is being filed in response to the Office Action dated June 14, 2010. Claims 1-3, 9-14, 17, 18, and 40-58 are pending in the present application, of which Claims 1 and 40 are the independent claims. Claims 1, 2, 40, and 41 have been amended, and Claims 51-58 have been added. Support for the amendments and new claims can be found, for example, in originally filed claim 2, and pages 12, 14, 17, 18 of the originally filed application. Reconsideration of the application in view of the following comments is respectfully requested.

**CLAIM REJECTIONS – 35 U.S.C. § 103**

Claims 1-3, 10, 13, 14, 17, and 18, are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. Appl. Pub. No. 2003/0009215 to Mayer (“Mayer”). Claim 9 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Mayer, in view of “A Hysteresis-Free Platinum Alloy Flexure Material For Improved Performance and Reliability of MEMS Devices” to Brazzle, et al. (“Brazzle”), as applied to claim 1 above, and further in view of U.S. Pat. No. 6,767,360 to Alt, et al. (“Alt, et al.”). Claims 11 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Mayer, in view of Brazzle, as applied to claim 10, further in view of U.S. Pat. Appl. Pub. No. 2004/0039438 to Alt (“Alt”). Claims 40-42, 44, and 47-50 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Mayer, in view of “The Resistance to Fatigue Crack Growth of the Platinum Metals” to Speidel. Claim 43 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Mayer, in view of Speidel, as applied to claim 40, further in view of Alt, et al. Claims 45 and 46 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Mayer, in view of Speidel, as applied to claim 44, further in view of Alt.

A rejection under 35 U.S.C. § 103 in view of prior art references can be properly sustained if the references either expressly or impliedly suggest the claimed invention. MPEP

Section 706.02(j); Ex parte Clapp, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). It is respectfully submitted that the applied references fail to satisfy these high burdens.

Specifically, the applied references, whether alone or in combination, in view of what was known to one of ordinary skill in the art at the time the invention was made, nowhere teach or suggest at least the amended feature of a “stent [that] has a flexibility such that deflection of 1 mm from a neutral line occurs with less than 8 grams of force,” as recited in each of the independent claims, namely Claims 1 and 40.

Mayer was cited as disclosing a stent made up of a platinum : iridium alloy having about 70%-80% platinum and 20%-30% iridium. Office Action, p.3. Brazzle was cited as teaching use of an alloy having 79% platinum, 15% rhodium, and 6% ruthenium. Office Action, p.4. Alt was cited as teaching a coronary stent that has a sidewall thickness of 100 microns or less. *Id.* Finally, Speidel was cited as teaching a 70% platinum and 30% rhodium alloy. Office Action, p.6. None of the references, however, whether alone or in combination, in view of what was known to one of ordinary skill in the art at the time the invention was made, teach or suggest at least the amended feature of a “stent [that] has a flexibility such that deflection of 1 mm from a neutral line occurs with less than 8 grams of force,” as recited in each of the independent claims.

Accordingly, the applied references do not teach or suggest the features of the independent claims, which are believed to be in condition for allowance. The other claims currently under consideration in the application are dependent from their respective independent claims discussed above and therefore are believed to be allowable over the applied references for at least similar reasons. Because each dependent claim is deemed to define an additional aspect of the invention, the individual consideration of each on its own merits is respectfully requested.

Therefore, Applicants respectfully request that the Examiner withdraw the rejections of Claims 1-14, 18, and 40-50 under 35 U.S.C. § 103(a).

### **NEW CLAIMS**

Applicants have added new Claims 51-58.

New claims 51-54 depend from independent Claim 1, and new Claims 55-58 depend from independent Claim 40. Because new dependent Claims 51-58 depend from either independent Claim 1 or 40 discussed above, and for reasons of their additional patentable limitations, each of new Claims 51-58 is believed to be in condition for allowance.

### **CONCLUSION**

In view of the foregoing comments, it is respectfully submitted that the present application is fully in condition for allowance, and that such action is earnestly solicited. If any questions remain, however, the Examiner is cordially invited to contact the undersigned attorney so that any such matters may be promptly resolved.

Applicants respectfully submit that the claims are in condition for allowance and have made a good faith effort to respond to the outstanding Office Action. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is cordially invited to contact Applicants' attorney, at the telephone number below, to resolve any such issues promptly.

Any remarks in support of patentability of one claim should not necessarily be imputed to any other claim, even if similar terminology is used. Any remarks referring to only a portion of a claim should not necessarily be understood to base patentability on solely that portion; rather, patentability must rest on each claim taken as a whole. Applicants respectfully reserve the right to traverse any of the Examiner's rejections or assertions, even if not discussed herein.


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Applicants respectfully reserve the right to challenge later whether any of the cited references are prior art. Although changes to the claims have been made, no acquiescence or estoppel is or should be implied thereby; such amendments are made only to expedite prosecution of the present application and are without prejudice to the presentation or assertion, in the future, of claims relating to the same or similar subject matter. Applicants reserve the right to contest later whether a proper reason exists to combine prior art references.

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Respectfully submitted,

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